

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

SHANE W. CARPENTER,

Plaintiff,

vs.

CIVIL ACTION
No. 08-3126-SAC

GREENWOOD COUNTY SHERIFF'S OFFICE,
et al.,

Defendants.

MEMORANDUM AND ORDER

By an order entered on June 22, 2011, the court directed plaintiff to show cause why certain defendants should not be dismissed from this action and also directed him to amend the complaint.

Plaintiff did not respond within the time allotted, and the court entered a second order on July 28, 2011, directing plaintiff to show cause why this matter should not be dismissed for lack of prosecution. Plaintiff was advised that the failure to file a timely response might result in the dismissal of this matter without additional prior notice to him, but he has filed no response to that order.

A federal court has the inherent power to act sua sponte to dismiss an action for failure to prosecute. *Link v. Wabash R.*

Co., 370 U.S. 626, 630-31 (1962). Federal Rule of Civil Procedure 41(b) authorizes the involuntary dismissal of an action for failure to prosecute or to comply with procedural rules or orders of the court. While the text of Rule 41(b) contemplates such dismissal upon the motion of a defendant, the Rule has been interpreted to allow the sua sponte dismissal of an action. *Link, id.*; *Rogers v. Andrus Transp. Services*, 502 F.3d 1147, 1151 (10th Cir. 2007).

The court finds plaintiff has been given notice of the court's intention to dismiss this matter in the absence of a response from him and concludes this matter should be dismissed for the reasons set forth in its order of July 28, 2011.

IT IS, THEREFORE, BY THE COURT ORDERED this matter is dismissed for lack of prosecution.

IT IS FURTHER ORDERED plaintiff's motion for leave to proceed in forma pauperis (Doc. 2) is granted.

A copy of this order shall be transmitted to the plaintiff.

IT IS SO ORDERED.

Dated at Topeka, Kansas, this 16th day of August, 2011.

S/ Sam A. Crow
SAM A. CROW
United States Senior District Judge